IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1623 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LABHUBHAI VASHRAMBHAI DARVA (PATEL) - Applicant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR EE SAIYED for Applicant(s) : 1,MR SIKANDER SAIYED for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/08/2007

ORAL JUDGMENT

Rule. Shri KT Dave, learned APP waives service of rule on behalf of the respondent State. With the consent of parties, the matter is taken up for final hearing today.

2. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner/ original complainant/informant has prayed for an appropriate order directing the learned Chief Judicial Magistrate, Bhavnagar to pass an appropriate order upon the final report of the PSI, Vartej Police Station, Bhavnagar in connection with the complaint being C.R. No.2 of 2002 after considering the written objections of the petitioner.

3. It appears from the record that a FIR came to be filed by the petitioner before the Vartej Police Station against the accused persons named in the said complaint for the offences punishable u/s 406, 420, 120-B, 465, 467, 468 and 114 of the IPC and the said complaint was filed on 24-8-01. It also further appears from the record that after investigation, the concerned Investigating Officer has submitted “C” summary u/s 169 of Criminal Procedure Code and the same has been submitted to the ld. Chief Judicial Magistrate, Bhavnagar on 22-5-02, against which the petitioner, - original complainant has also submitted its objections. A grievance which has been voiced in the present petition is that in spite of the fact that “C” summary report is submitted by the concerned Investigating Officer as far as back on 21-5-02, no decision has been taken by the learned trial Court on the said report and after considering the objections of the petitioner.

4. It is very unfortunate that till date, and though more than five years have passed after submission of the report by the concerned Investigating Officer, the ld. Magistrate has not passed any final order either accepting the said report and/or refusing to accept the said report. It is also required to be noted that whenever a report is submitted u/s 169 of Criminal Procedure Code, the concerned Magistrate is required to consider the same after considering the objections by the original complainant and it is reported that the petitioner, - original complainant has already submitted its objections long back. Under the circumstances, the ld. Chief Judicial Magistrate, Bhavnagar is hereby directed to pass an appropriate order upon the final report of the PSI, Vartej Police Station in connection with complaint being C.R. No.2 of 2002 after considering the written objections submitted by the petitioner as early as possible, preferably within a period of three months from the date of receipt of this order. Rule made absolute. DS permitted.

(M.R. Shah, J.)

shekhar/-